

# ANNUAL REPORT

*Statue of Frederick Douglass  
Easton, MD*



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# WE PROVIDE **SUPERIOR LEGAL REPRESENTATION** TO INDIGENT DEFENDANTS IN THE **STATE OF MARYLAND**

On March 18, 1963, the United States Supreme Court guaranteed the right to counsel to indigent defendants in criminal cases in the landmark case, *Gideon v. Wainwright*. On July 1, 1971, the Maryland Legislature created the Maryland Office of the Public Defender (OPD). OPD opened its doors in 1972.

OPD is an independent state agency. A Board of Trustees, composed of 13 members, studies, observes and advises on the operation of the public defender system. The Board appoints the Public Defender who serves a six-year term.

OPD has at least 1 district office in each county and Baltimore City. The District Trial Divisions provide felony, misdemeanor, traffic and juvenile delinquency defense for any offense where incarceration or detention is a possible penalty. Stages of representation include: arraignments, bail review, preliminary hearings, pre-trial motions, trial/disposition, sentencing/adjudication, motions to modify, and violations of probation and parole.

OPD also has 4 divisions that provide direct client representation in different proceedings. The Appellate Division provides representation on direct appeals of criminal, juvenile and children in need of assistance (CINA) cases. The Post Conviction Defenders Division provides representation on post conviction petitions, parole revocation hearings, and writs of actual innocence. The Parental Defense Division protects parental rights in CINA and termination of parental rights (TPR) proceedings when children are removed from the home. The Mental Health Division provides representation to those who are involuntarily committed to mental health hospitals across the state and to those found not criminally responsible (NCR) and incompetent to stand trial (IST).

OPD has 3 specialized units – the Innocence Project, Juvenile Protection, and Litigation Support. The Innocence Project (IP) works in collaboration with the University of Baltimore School of Law and screens over 200 cases annually to assess whether an inmate claiming innocence may have a viable wrongful conviction claim. IP litigates viable innocence claims through all stages of the process. Juvenile Protection monitors the conditions of confinement of all OPD juvenile clients committed to the care and custody of the Department of Juvenile Services (DJS). JPD is also responsible for protecting the individual rights of juveniles who are committed to DJS facilities, ensuring the safety and appropriateness of their placements and assuring timely implementation of juvenile court orders. Litigation Support (which includes Forensics, Mental Health Experts, Major Crimes & Complex Litigation, Social Work & Immigration) assists attorneys throughout the state with their trial and litigation preparation.

OPD Administration includes: Human Resources, Fiscal, Recruitment, Training, Information Technology, General Counsel, and Facilities Management.

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WE SEEK **JUSTICE, FAIRNESS & DIGNITY FOR ALL**

## FROM THE PUBLIC DEFENDER

As we finalize OPD's second strategic plan, we have taken the time to look back at our accomplishments over the previous five years. I am pleased at the advancements and success that we have achieved:

- Our Litigation Support Unit, which includes forensics, social work, mental health experts, and investigation, has assisted our trial attorneys provide superior representation and is a model for other public defender offices. They provide expertise, consultation, social work assessments and mitigation, and investigators.
- Our Training Division partners with the nationally-renowned *Gideon's Promise* program, a skills-based and community-building training model, to improve the delivery of service and help advance our client-centered culture. As I write this, the 2018 fall class is participating in the *Gideon's Promise* training at our brand-new training center.
- Many offices have adopted a "vertical representation" model, which allows the same attorney to continue to represent the client as his or her case moves from district court to circuit court.
- We have expanded our presence in the community by holding expungement clinics, know-your-rights events and education representation initiatives.
- We hired a Director of Diversity & Inclusion who is a key member of OPD's senior management team. We also established the Equity, Diversity & Inclusion Committee, which includes membership from each of our districts and divisions, to assist the Director in identifying solutions to make OPD a more inclusive work environment.
- We established a technology committee to help identify issues and recommend solutions for our growing technology needs. We also procured a new case management system, eDefender, which is in development.
- Our Government Relations team continues to work with a community coalition on bail reform and other systemic issues.

These are but a few of our agency-wide accomplishments. Our attorneys and core staff continue to achieve successful results for our clients, too numerous to list.

Despite our progress, there is still more work to be done – particularly with respect to workloads. Since 2005, OPD has been publishing attorney workloads measured against Maryland-specific caseload standards. A look back shows a clear pattern of excessive caseloads throughout most districts and divisions. The good news in this report is that juvenile caseloads are at or below standard in all but four districts, and Baltimore City caseloads are at or below standards at all levels. Unfortunately, other offices face significant burdens and have insufficient resources for the quality representation required.

However, we are strategic in addressing this challenge as well. With support from the Department of Budget and Management (DBM), we launched a workload reduction pilot project. This pilot project is aimed at reducing the burden on district court lawyers in the jurisdictions with the heaviest caseloads by paneling district court "dockets" to the private bar. With these funds, we anticipate paneling approximately 11,000 cases this year. It is our hope that this funding will continue.

DBM also provided funding for contractual core staff to supplement a severe reduction in our core staff positions, which had cut over 100 positions in the past 5 years. This funding has allowed OPD to hire approximately 65 additional core staff contractual employees this past year.

The additional support supplements our dedication, commitment, and passion to provide and support zealous, superior representation. We continue to be inspired by OPD's vision statement, "Justice, Fairness and Dignity for All."

# DISTRICTS

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## DISTRICT 1

### **BALTIMORE CITY**

DISTRICT PUBLIC DEFENDER, KIRSTEN DOWNS  
DEPUTY, NATASHA DARTIGUE

## DISTRICT 2

### **DORCHESTER | SOMERSET | WICOMICO | WORCESTER**

DISTRICT PUBLIC DEFENDER, CHASITY SIMPSON  
DEPUTY, ARCHIBALD MCFADDEN

## DISTRICT 3

### **CAROLINE | CECIL | KENT | QUEEN ANNE'S | TALBOT**

INTERIM DISTRICT PUBLIC DEFENDER, JANET HART  
ACTING DEPUTY, JASON RICKE

## DISTRICT 4

### **CALVERT | CHARLES | ST. MARY'S**

DISTRICT PUBLIC DEFENDER, MICHAEL BEACH  
DEPUTY, EDIE CIMINO

## DISTRICT 5

### **PRINCE GEORGE'S**

ACTING DISTRICT PUBLIC DEFENDER, KEITH LOTRIDGE

## DISTRICT 6

### **MONTGOMERY**

DISTRICT PUBLIC DEFENDER, ALLEN WOLF  
DEPUTY, THERESA CHERNOSKY

## DISTRICT 7

### **ANNE ARUNDEL**

DISTRICT PUBLIC DEFENDER, WILLIAM DAVIS  
DEPUTY, ELIZABETH PALAN

## DISTRICT 8

### **BALTIMORE COUNTY**

DISTRICT PUBLIC DEFENDER, DONALD ZAREMBA  
DEPUTY, GAYLE ROBINSON

## DISTRICT 9

### **HARFORD**

DISTRICT PUBLIC DEFENDER, KELLY CASPER  
DEPUTY, JOHN JANOWICH

## DISTRICT 10

### **CARROLL | HOWARD**

ACTING DISTRICT PUBLIC DEFENDER, LOUIS WILLEMIN

## DISTRICT 11

### **FREDERICK | WASHINGTON**

DISTRICT PUBLIC DEFENDER, MARY RILEY  
DEPUTY, ERIC REED

## DISTRICT 12

### **ALLEGANY | GARRETT**

DISTRICT PUBLIC DEFENDER, JAMES ELLIOTT

# DIVISIONS

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## **APPELLATE DIVISION**

CHIEF, BRIAN SACCENTI  
DEPUTY, BRIAN ZAVIN

## **MENTAL HEALTH DIVISION**

CHIEF, CARROLL MCCABE  
DEPUTY, TIM SCULLY

## **PARENTAL DEFENSE DIVISION**

CHIEF, VANITA TAYLOR  
DEPUTY, CHARLENE DUKES

## **POST CONVICTION DEFENDERS**

CHIEF, INITIA LETTAU

## SPECIALIZED UNITS

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### LITIGATION SUPPORT UNIT

#### FORENSICS

CHIEF, JEFFREY GILLERAN

#### SOCIAL WORK

DIRECTOR, TERRI COLLINS

#### MENTAL HEALTH EXPERTS

SUPERVISOR, MARY PIZZO

#### IMMIGRATION

DIRECTOR, NADINE WETTSTEIN

#### MAJOR CRIMES & COMPLEX LITIGATION

CHIEF, KATY O'DONNELL

#### JUVENILE PROTECTION

DIRECTOR, DEBORAH ST. JEAN

#### INNOCENCE PROJECT

DIRECTOR, MICHELE NETHERCOTT

## ADMINISTRATION

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#### PUBLIC DEFENDER

PAUL DEWOLFE

#### DEPUTY PUBLIC DEFENDER

BECKY FELDMAN

#### ASSISTANT TO THE PUBLIC DEFENDER

JANICE SEHORN

#### CHIEF FINANCIAL OFFICER

KATHLEEN MATTIS

#### GENERAL COUNSEL

A. STEPHEN HUT

#### DIRECTOR OF HUMAN RESOURCES

CYNTHIA KNIGHT

#### DIRECTOR OF TRAINING

PATRICE FULCHER

#### DIRECTOR OF RECRUITMENT

JOHANNA LESHNER

#### DIRECTOR OF DIVERSITY & INCLUSION

ZANELE NGUBENI

#### DIRECTOR OF GENERAL ADMIN.

TAMMY JARNAGIN

#### DIRECTOR OF POLICY & DEVELOPMENT

MELISSA ROTHSTEIN

#### DIRECTOR OF GOVERNMENT RELATIONS

RICARDO FLORES

#### DIRECTOR OF JUVENILE JUSTICE POLICY

MELANIE SHAPIRO

#### DIRECTOR OF ASSIGNED COUNSEL

SCOTT REID

#### FACILITIES MANAGEMENT

KEN MEADOWS

## POLICE MISCONDUCT

Eight Baltimore City police officers were charged and ultimately convicted of federal racketeering and extortion, for abuse and misconduct often committed while on duty. OPD has been at the forefront of demanding greater transparency by the Baltimore City Police Department. OPD is also leading the way to clear the names of individuals arrested by these officers and to ensure people still serving time based on these officers' claims are promptly released.

The federal convictions reinforce what OPD has long known and what was documented in a DOJ report and federal consent decree with the city: that the police department requires significant reform, improved transparency, and greater oversight. In addition to participating in the consent decree process, OPD created a Special Litigation Unit in the Baltimore City District Office that focuses on police misconduct. This Unit assists Baltimore attorneys with obtaining and litigating internal affairs files for witnesses who are officers, and serves as a resource and model for OPD's other district offices as they address police misconduct in their jurisdiction.

**To date, 300 convictions have been overturned.**



## YOUTHFUL DEFENDANTS

OPD recognizes the unique developmental circumstances of its young clients and how critically important it is for them remain out of the adult criminal system.

**Remaining in the juvenile system provides increased access to educational and rehabilitative services, and minimizes the stigma and collateral consequences of a criminal record.**

OPD's Baltimore City District Office has a dedicated Youthful Defendant Unit (YDU) composed of an interdisciplinary team of attorneys, social workers, and core staff who represent children charged as adults. Working with relevant experts, and partnering with juvenile defenders to provide cross-representation in both adult and juvenile court, the YDU team achieves the best possible results for our clients.

# REFORM

## BAIL REFORM

The year 2017 marked a watershed moment in bail reform. The Court of Appeals instituted a new rule intended to deprioritize the use of money bail and to encourage release of individuals pending trial who do not pose any significant risk to the community.

**OPD was a leading advocate to secure the rule change and has since led the charge in ensuring its proper implementation.**

OPD is involved with various initiatives to further encourage pretrial release of presumptively innocent clients, advocates for the use of validated assessment tools, and is a partner in Baltimore County's risk assessment pilot project.

OPD also seeks to establish low cost/high impact services that minimize the need for detention or monitoring. In collaboration with the Stanford University's Legal Design Lab and Uptrust Inc., with support from Abell Foundation, Open Society Institute-Baltimore, and RFK Human Rights, OPD has piloted text alert reminders in select jurisdictions for clients to receive automated reminders about upcoming court dates on their cell phones. Studies have shown that merely reminding defendants about court dates, through text alerts or similarly accessible media, can improve appearance rates.

Finally, with support from the Open Society Institute-Baltimore, OPD helped educate the public about the pretrial process and coordinated a court watch for community members to observe bail review hearings and help gather early data about the rule's implementation. The resulting report, **"Bail Reviewed: Report of the Court Observation Project,"** documented the observers' findings and recommendations.

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## JUSTICE REINVESTMENT

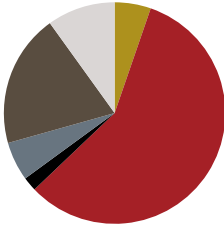
In 2015, Governor Hogan signed the Justice Reinvestment Act (JRA) into law. The law provided, among other things, for the elimination of mandatory minimum sentences for certain drug crimes, the opportunity to request modifications of sentence for those already serving mandatory drug sentences, graduated sanctions for technical violations of probation, and improved parole opportunities for certain offenders.

Over 125 assistant public defenders represented approximately 245 inmates across the state requesting sentence modifications for drug crimes that had mandatory minimum sentence imposed, prior to the JRA changes. These sentences include: 10 years without parole, 25 years without parole, and 40 years without parole. To date, 115 modification requests were granted and 52 were denied. Of the modification requests that were granted, 57 resulted in immediate release, and in 45 cases, the court removed the "no parole" provision of the sentence.

Another provision of the JRA reduced the age to apply for geriatric parole from 65 to 60 for persons sentenced to mandatory sentences for crimes of violence. Unfortunately, that change only affected 2 inmates. **OPD recommends revisiting geriatric parole in the next session**, and broadening its application to any inmate aged 60 and over who has served at least 15 years of their sentence.



# THE WORKLOAD BREAKDOWN



■ Panded      ■ Trial Matters  
■ Appellate    ■ Post Conviction  
■ Mental Health   ■ CINA

DISTRICT COURT MATTERS	121,036
CIRCUIT COURT MATTERS	35,845
JUVENILE MATTERS	8916
CINA	3215
TERM. OF PARENTAL RIGHTS	201
GUARDIANSHIP REVIEWS	43
INVOLUNTARY COMMITMENTS	6290
NCR & COMPETENCY REVIEWS	654
POST CONVICTION MATTERS	2190
APPELLATE MATTERS	761
PANELED CASES	17,027

**TOTAL MATTERS 196,178**

-Cases opened January 1 - December 31, 2017

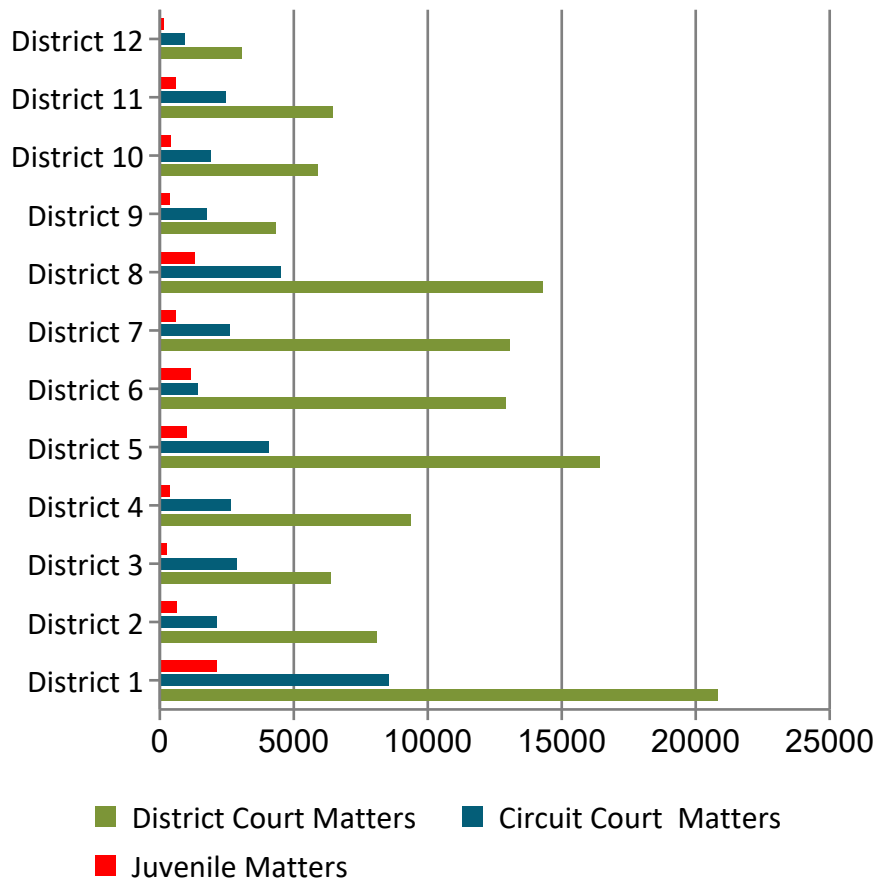
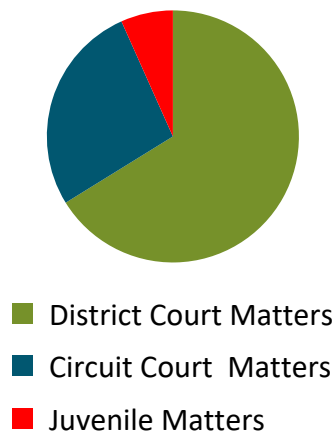
-Problem Solving Court representation is not reflected in caseload numbers. OPD provides representation in 42 problem solving courts.

-District Court Criminal includes: criminal proceedings, modifications, VOPs, and DNA testing.

-Circuit Court Criminal includes: criminal proceedings, modifications, VOPs, civil non-support/contempt, and district court appeals.

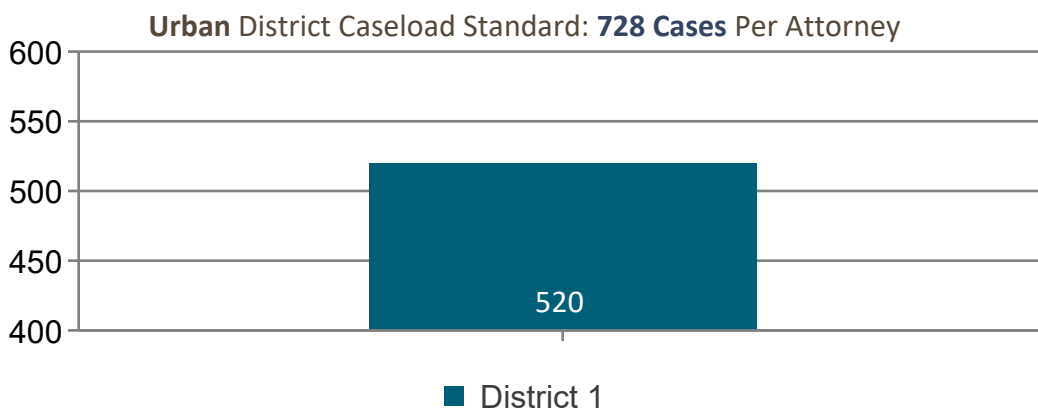
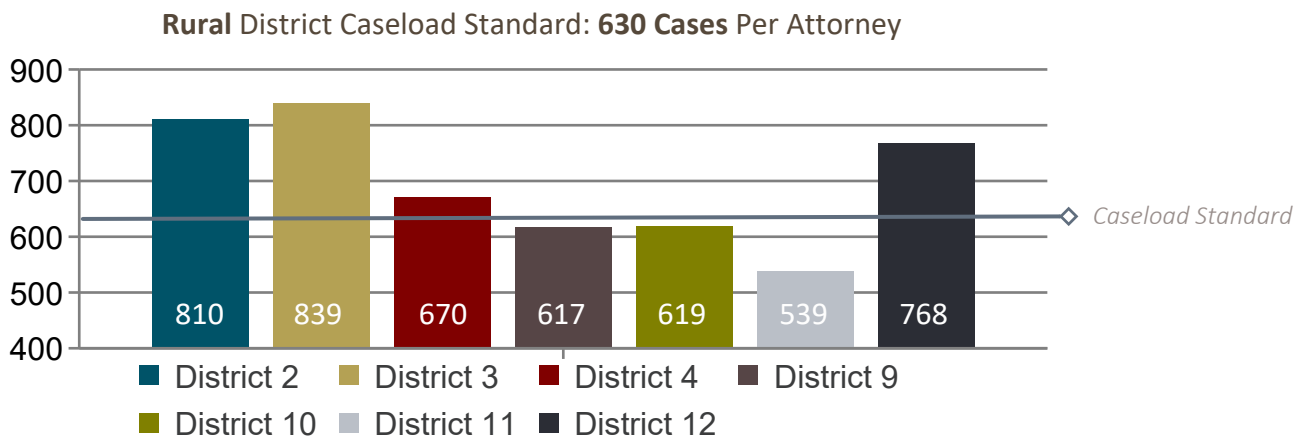
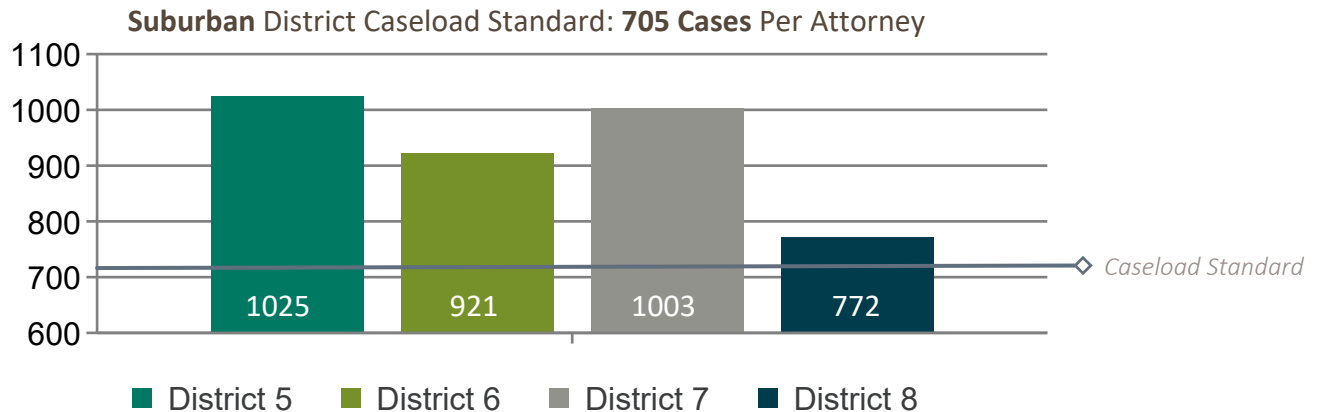
# DISTRICT MATTERS ASSIGNED IN 2017

	District Court Matters	Circuit Court Matters	Juvenile Matters	TOTAL	Number of Trial Attorneys & Supervisors
District 1	20808	8526	2103	31331	122
District 2	8104	2123	622	10848	21
District 3	6380	2855	270	9504	20
District 4	9379	2659	354	12391	25
District 5	16407	4056	992	21453	52
District 6	12894	1409	1165	15477	32
District 7	13041	2616	600	16254	30
District 8	14287	4514	1289	20090	49.5
District 9	4316	1766	349	6431	15
District 10	5879	1915	423	8206	20
District 11	6469	2473	606	9530	24
District 12	3072	933	143	4148	9
TOTAL	121036	35845	8916	165797	420.5
PANELED	7386	4287	1836	13509	



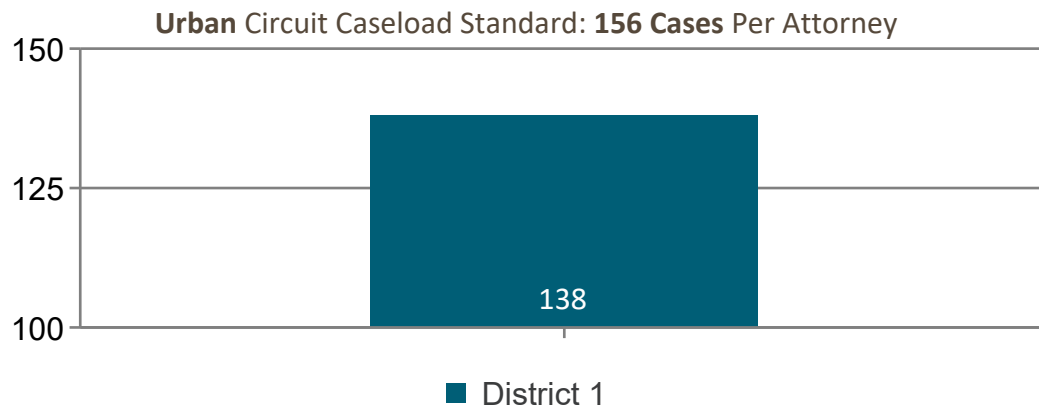
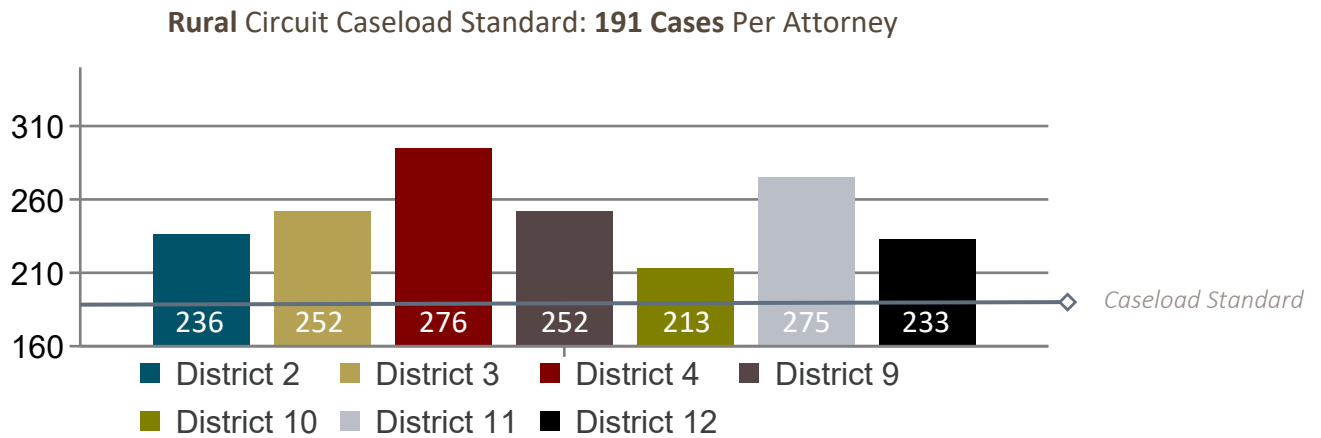
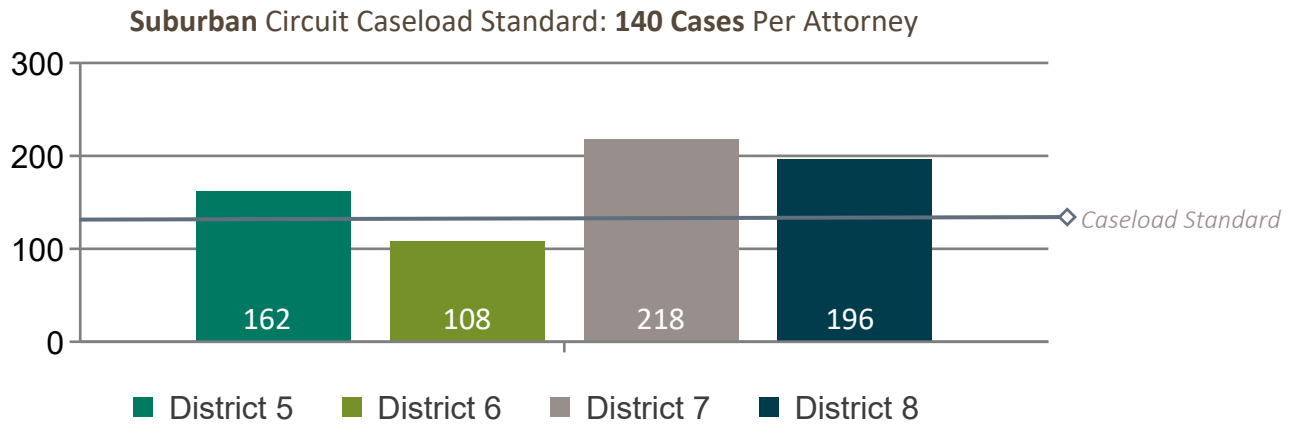
# DISTRICT COURT MATTERS PER ATTORNEY

To assess caseloads, OPD relies on case standards developed for OPD in 2005 (See Appendix 1). Four offices that achieved caseload standards last year were able to remain within caseload standards (Districts 1, 9, 10, and 12). However, the district court caseloads in Districts 8 and 12 increased in 2017 and are no longer within standards. Districts 2, 3, 4, 5, 6, and 7 still exceed standards.



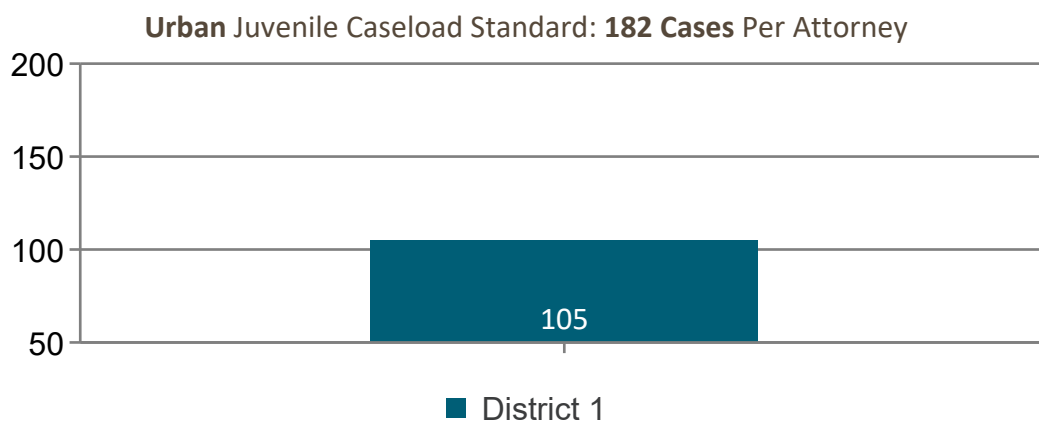
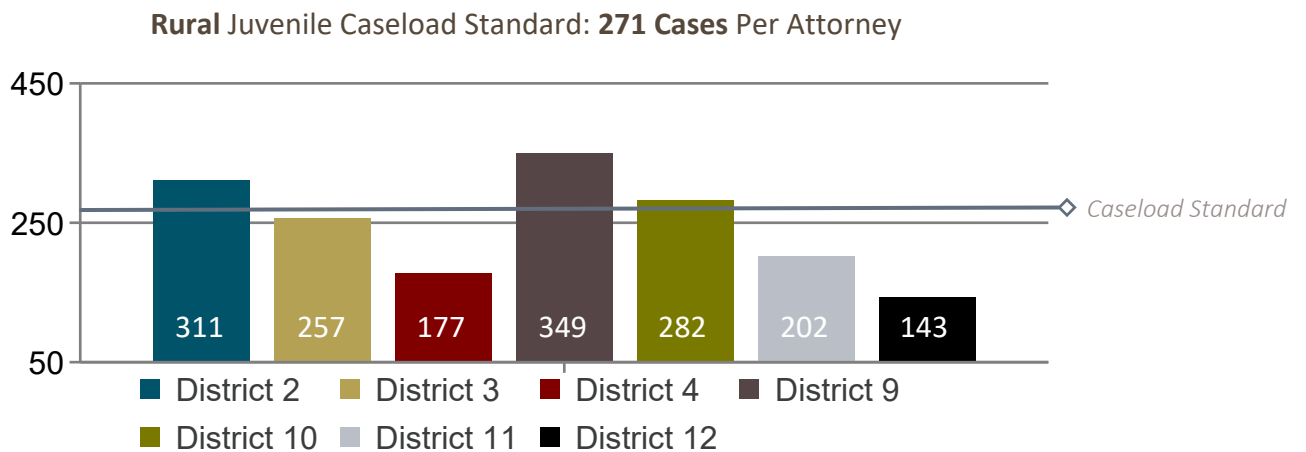
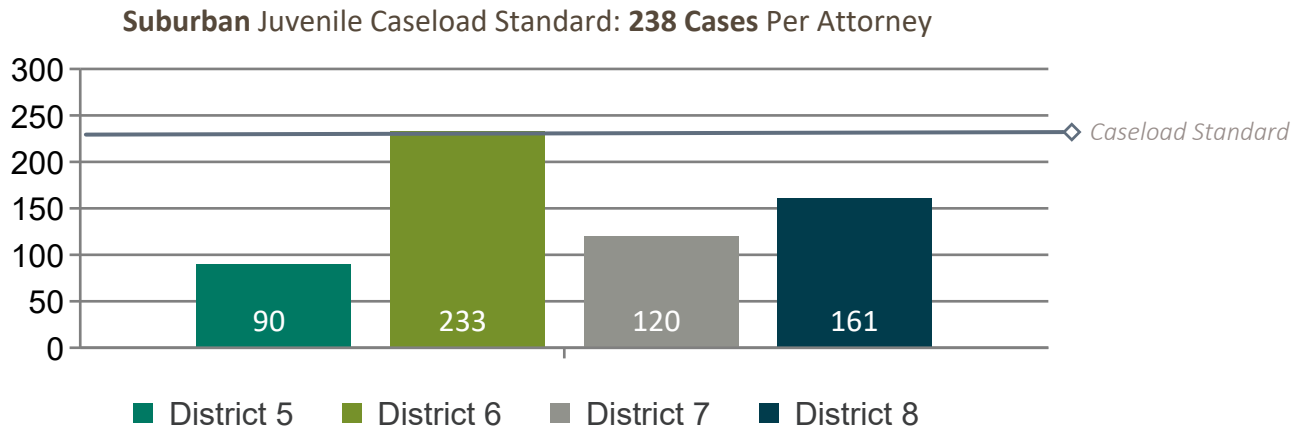
# CIRCUIT COURT MATTERS PER ATTORNEY

In 2017, all districts, except for Districts 1 and 6, carry circuit court caseloads in excess of caseload standards (Appendix 1).



# JUVENILE MATTERS PER ATTORNEY

In 2017, OPD managed to bring juvenile caseloads within standards for all districts, except Districts 2, 9 and 10.



# DIVISION MATTERS PER ATTORNEY

This year, appellate caseloads are slightly over caseload standards. Post Conviction Division (PCD) caseloads still exceed standards. It should be noted that the caseload standards did not include a significant portion of PCD's work. The 2005 standards did not estimate time values: sentencing modifications, illegal sentence motions, petitions for DNA review, and other post sentencing hearings. On a positive note, parole revocation hearings dropped significantly in 2017, due in part to the Justice Reinvestment Act.

## APPELLATE DIVISION

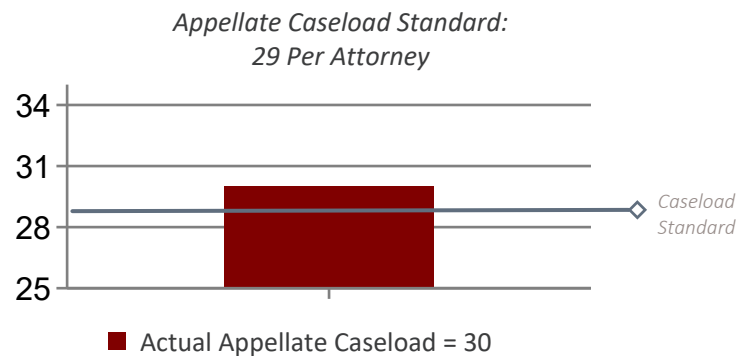
### Appellate Matters Assigned in 2017

- 543 Criminal Appeals
- 87 TPR/CINA Appeals
- 46 Applications for Leave to Appeal
- 63 Writs of Certiorari
- 20 Justice Reinvestment Motions
- 2 Amicus Briefs

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761 Total Matters Assigned

\*113 Additional Matters Paneled  
Number of Attorneys & Supervisors: 25.5



## POST CONVICTION DEFENDERS DIVISION

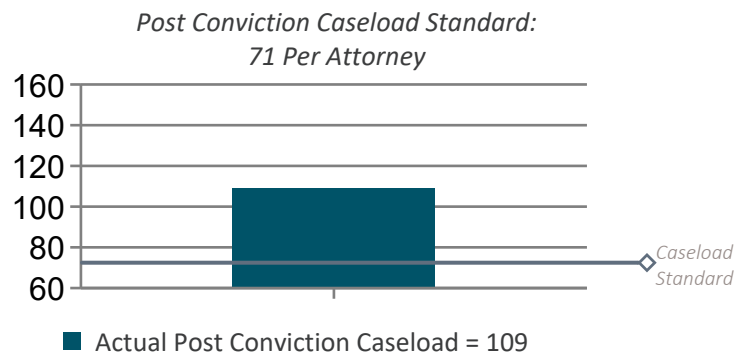
### Post Conviction Matters Assigned in 2017

- 1398 Post Conviction Petitions
- 548 Parole Revocation Proceedings
- 177 Sentencing Modifications
- 13 Applications for Leave to Appeal
- 13 Illegal Sentence Motions
- 22 Writs of Actual Innocence
- 16 Other Post Sentencing Hearings
- 3 Petitions for DNA Testing

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2190 Total Matters Assigned

\*88 Additional Matters Paneled  
Number of Attorneys & Supervisors: 20



# DIVISION MATTERS PER ATTORNEY

Parental Defense Division caseloads are within standards; however, as explained below, the standard does not account for statutory changes create additional processes. Mental Health Division caseloads significantly exceed standards.

## PARENTAL DEFENSE DIVISION

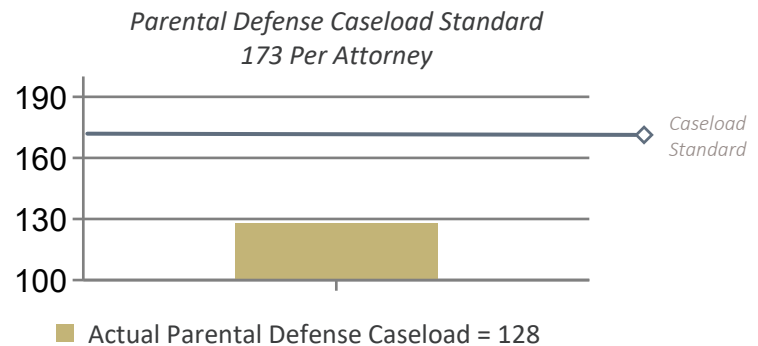
### Parental Defense Matters Assigned in 2017

- 3215 CINA cases
- 201 TPR cases
- 43 Guardianship Reviews

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3459 Total Matters Assigned

\*3246 Additional Matters Paneled  
Number of Attorneys & Supervisors: 27



According to the Maryland Attorney & Staff Workload Assessment (Appendix 1), Parental Defense caseloads are below caseload limits. However, this particular assessment no longer accurately represents the work required for a CINA or TPR case. Since the caseload standards were established in 2005, the relevant statute has been modified to require two additional hearings, as well as ancillary court-ordered mediation, family recovery drug courts, and truancy courts. Also, Department of Social Services has added mandatory family involvement/team decision making meetings for all open cases at various stages of the process. Additionally, OPD is now responsible for representing both the custodial and non-custodial parent.

A recent CINA/TPR workload assessment done in Pennsylvania (2015) which has similar proceedings, calculates an additional 1,997 minutes per CINA case than Maryland, and an additional 1,074 minutes to litigate a TPR case. Using those calculations, the recommended Parental Defense Caseload would be 40 cases per attorney – not 173 cases. **This would result in a need for an additional 53 attorneys for this division to meet those caseload standards.**

## MENTAL HEALTH DIVISION

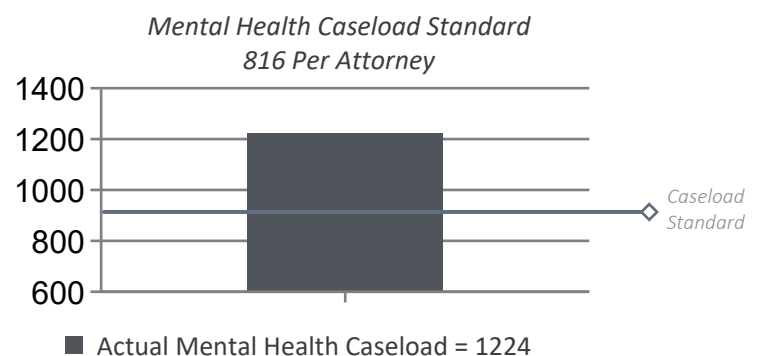
### Mental Health Matters Assigned in 2017

- 6290 Involuntary Commitments
- 461 Incompetent to Stand Trial
- 146 Not Criminally Responsible
- 47 Commitment Reviews

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6944 Total Matters Assigned

\*88 Additional Matters Paneled  
Number of Attorneys & Supervisors: 6



# 33

## ATTORNEYS NEEDED TO MEET CASELOAD STANDARDS

OPD constantly assesses resources and needs for each District and Division, and redistributes resources when possible. From January 2017 through December 2017, approximately 10 vacant attorney positions were redistributed to the districts and divisions. Without further redistribution, 36 circuit court attorneys and 24 district court attorneys were still needed at the end of 2017 to meet caseload standards for Districts 2 through 12. The numbers below reflect the need should resources continue to be redistributed.

19

TRIAL  
ATTORNEYS

11

POST CONVICTION  
ATTORNEYS

03

MENTAL HEALTH  
ATTORNEYS

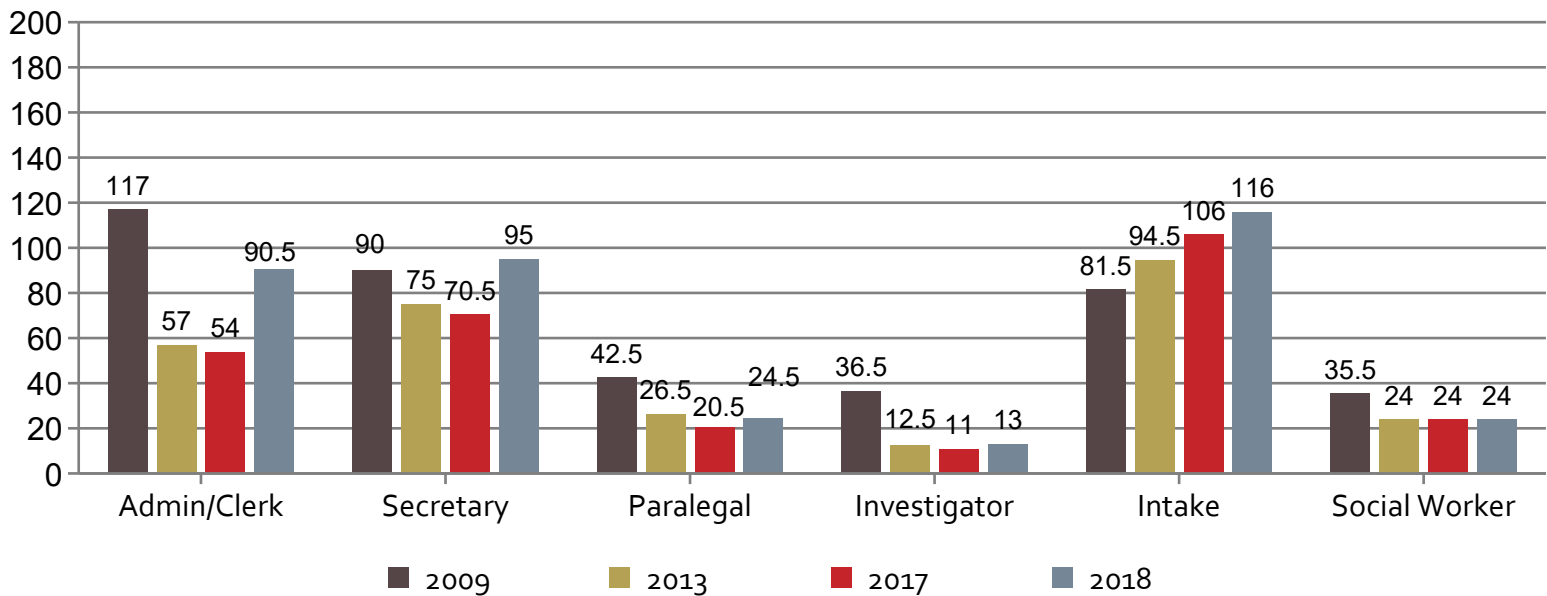
## WORKLOAD REDUCTION PILOT PROGRAM

In FY 2018, the State allocated \$1M in funding to OPD for a pilot program designed to reduce attorney caseloads by paneling cases to the private bar. OPD designed the Workload Reduction Pilot Program (WRPP) to panel district court dockets at a per diem rate to panel attorneys (average docket = 6 clients), from June 2018 through December 2018. The following districts were selected to participate: District 2; District 3 (Cecil County only); District 4; District 5, District 6, District 7, District 8, and District 12.

OPD anticipates paneling approximately 11,000 cases by the end of the program, which would be the equivalent of 15 full-time district court public defenders.



## DISTRICT/DIVISION CORE STAFF



2009: 403 Core Staff  
543 Attorneys

2013: 289.5 Core Staff  
511.5 Attorneys

2017: 285 Core Staff  
540.5 Attorneys

2018: 363 Core Staff  
540.5 Attorneys

The core staff standards outlined in the *Maryland Attorney and Staff Workload Assessment* (2005) (Appendix 1) provide for:

- 1 social worker for every 8 attorneys**
- 1 secretary for every 3 attorneys**
- 1 paralegal for every 11 attorneys**

In Fiscal Year 2018, OPD received funding for new contractual positions across the state to bolster administrative operations in district and division offices, adding over 70 core staff positions to the agency. As of December 2017, OPD now has a total of 363 core staff positions that directly support district/division operations for 540.5 district/division attorneys. (Of the 363 core staff positions, 56 were vacant at the end of 2017).

However, to meet core staff standards, an **additional 44 social workers** and **24 paralegals** are needed.

## MARYLAND ATTORNEY AND STAFF WORKLOAD ASSESSMENT, 2005

Excessive caseloads for public defenders jeopardize protection of the constitutional rights of the accused. Providing effective assistance of counsel is directly related to the number of public defenders and core staff available to handle the more than 180,000 cases opened by the Office of the Public Defender (OPD) in Maryland each year. As a result of high caseloads, OPD is increasingly challenged to meet its constitutional and statutory obligations.

As a result, in 2005, the Maryland legislative and executive branches requested that OPD develop caseload standards upon which to base its operating budget. The “Maryland Attorney and Staff Workload Assessment” was published later that year.

OPD obtained the assistance of the National Center for State Courts (NCSC) to perform an assessment that resulted in caseload standards that provide uniform and comparable measures of the number of attorneys and support staff needed to ensure that Maryland fulfills its constitutional obligation to provide effective assistance of counsel. Examples of these recommended standards, as compared with the American Bar Association (ABA) standards, are shown below for the OPD’s District Operations.

### Final Recommended Caseloads

	<u>Rural</u>	<u>Suburban</u>	<u>Urban</u>	<u>ABA</u>
Felony (including Homicide)	191	140	156	150
Misdemeanor (including traffic)	630	705	728	400
Juvenile	271	238	182	200

For the purposes of this report, OPD has equated felony cases with circuit court matters and misdemeanor and traffic cases with district court matters. At the current time, OPD does not distinguish between felony or misdemeanor in its actual caseload statistics. However, OPD will soon begin the process of reviewing and updating our workload standards and our case management system to keep with best practices in this ever-changing law and technology environment.